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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,727	11/25/2003	Gary P. Raden	MS306094.01	5767
27195 7590 09/13/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER JEAN GILLES, JUDE	
			ART UNIT 2143	PAPER NUMBER
			NOTIFICATION DATE 09/13/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/721,727

Applicant(s)

RADEN ET AL.

Examiner

Jude J. Jean-Gilles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-41 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application  
 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This office action is responsive to Reply filed on 06/22/2007.

#### ***Response to Amendment/Arguments***

1. In the claims, 1-41 remain pending in the application with independent claims 1, 21, and 36 amended and no claim has been cancelled herein. Claims 1-41 represent a method and apparatus for an "SYSTEMS AND METHODS FOR UNIFYING AND/OR UTILIZING STATE INFORMATION FOR MANAGING NETWORKED SYSTEMS."

Applicant's arguments with respect to claims 1, 21, 36, and 37 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the existing ground of rejection as explained here below. Applicants' amendments to the independent claims are not properly made and as to perhaps place them in condition for allowance.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

In response to Applicant's arguments, 37 CFR § 1.11(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must show the amendments avoid such references or objections."

Applicant's Request for Reconsideration filed on 06/22/2007 has been carefully considered but is not deemed fully persuasive. However, because there exists the

likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention:

A: Applicant contends that the office action Claims 1-41 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-41 of Original Application No. 10/721726. This rejection should be withdrawn for at least the following reasons. Independent claims 1, 21 and 36 have been amended such that they are no longer coextensive in the scope.

B: Applicants argue that the claimed subject matter relates to a system and methodology for providing monitoring and control of utilization related aspects of networked systems. In particular, independent claims 1, 21 and 36 as amended, recite similar aspects, namely *enabling a user to manipulate assets of the networked system to facilitate improved utilization of the networked system*. Additionally, independent claims 1, 21 and 36 relate to *aggregated system state data*. Lau does not disclose or suggest these aspects of the claimed subject matter.

As to point A, the 35 U.S.C. §101 rejection has been withdrawn.

As to point B, It is the position of the Examiner that Lee in detail teaches the limitations of the above mentioned claims. However, in view of Applicant's remarks, The Office respectfully concludes that the applicant mischaracterizes the teachings of Lau and that the argument presented above is moot. See the rejection of amended claims 1, 21 and 36 below.

Examiner notes that no new matter has been added and that the new claims are

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supported by the application as filed. However, applicant has failed in presenting claims and drawings that delineate the contours of this invention as compared to the cited prior art. Applicant has failed to clearly point out patentable novelty in view of the state of the art disclosed by the references cited that would overcome the 102(b) anticipation rejections applied against the claims, the rejection is therefore sustained.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-41** are rejected under 35 U.S.C. 102(b) as being anticipated by Lau U.S. Patent No. 6,101,500.

Regarding **claim 1-41**, Fraser discloses:

1. A system that facilitates networked system ~~monitoring~~management, comprising:

a component that obtains aggregated system state data for at least one system component(fig. 2C; item 253; column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47);

an analysis component that processes at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state (column 11, lines 15-47); and

a user interface that provides state related information based upon the state characteristic to a user (fig. 4, item 40; column 13, lines 1-23); the user interface receives at least one user control parameter that facilitates improved utilization of the networked system (see fig. 2B, items 101, and 250; fig. 3; column 1, lines 66-67; column 2, lines 1-11; column 12, lines 42-49; note the role of the GUI in the network interface as it is used to create the network entity manually, thereby improving user utilization; the user can then create objects that help manage the network).

2. The system of claim 1, the state related information comprising a current state status relating to at least one selected from the group consisting of system usage states, system performance states, and system health states (column 18, lines 40-50; column 11, lines 55-67).

3. The system of claim 2, the current state status relating to an individual end-user of the networked system (column 6, lines 58-67; column 7, lines 1-9).

4. The system of claim 2, the current state status indicating top "X" asset utilization of a particular networked system asset, where X represents a desired number of top asset users (column 3, lines 10-29).

5. The system of claim 4, the desired number of top asset users comprising at least one

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selected from the group consisting of approximately 1, approximately 5, approximately 10, approximately 25, approximately 50, approximately 75, and approximately 100 (column 3, lines 10-29).

6. The system of claim 4, the particular networked system asset comprising at least one selected from the group consisting of memory usage, CPU utilization, hard disk space usage, random access memory (RAM) usage, and network communication bandwidth usage (column 18, lines 40-49; column 11, lines 16-47).

7. The system of claim 4, the top asset users comprising running processes (fig. 6 A-B; 7 A-B; column 10, lines 8-17).

8. The system of claim 4, the top asset users comprising end-users of the networked system (column 6, lines 58-67; column 7, lines 1-9).

9. The system of claim 8, the particular networked system asset comprising Internet usage (fig. 1; column 8, lines 27-45; column 10, lines 17-29).

10. The system of claim 1, the state related information comprising, at least in part, administrative guidance information corresponding to the networked system (column 11, lines 16-46).

11. The system of claim 1, the state related information comprising an historical state status relating to at least one selected from the group consisting of system usage states, system performance states, and system health states (column 18, lines 40-50; column 11, lines 55-67).
12. The system of claim 11, the historical state status relating to an individual end-user of the networked system.
13. The system of claim 1, the system component comprising a server.
14. The system of claim 1, the user interface comprising at least one selected from the group consisting of a system usage user interface, a system performance user interface, and a system health user interface (column 18, lines 40-50; column 11, lines 55-67).
15. The system of claim 1, the user interface comprising a customizable user interface (fig. 1, fig. 4 and item 401).
16. The system of claim 1, the user interface comprising an interactive user interface (fig. 1, fig. 4 and item 401).
17. The system of claim 16, the interactive user interface comprising a prior state



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reversion control user interface (fig. 1, fig. 4 and item 401).

18. The system of claim 16, the interactive user interface comprising a control user interface that controls a utilization aspect of the networked system (fig. 1, fig. 4 and item 401).

19. The system of claim 18, the control user interface comprising a system prioritization user interface that prioritizes usage of the utilization aspect of the networked system (fig. 1, fig. 4 and item 401).

20. The system of claim 18, the utilization aspect of the networked system comprising at least one selected from the group consisting of Internet bandwidth usage, CPU usage, hard disk space usage, e-mail usage, fax usage, and printing usage (column 3, lines 10-29).

21. A method for facilitating ~~monitoring~~ management of a networked system, comprising: acquiring aggregated system state data for at least one system component; analyzing at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state; and

providing state related information based upon the state characteristic to a user;

and

enabling a user to manipulate assets of the networked system to facilitate improved utilization of the networked system (see fig. 2B, items 101, and 250; fig. 3; column 1, lines 66-67; column 2, lines 1-11; column 12, lines 42-49; note the role of the GUI in the network interface as it is used to create the network entity manually, thereby improving user utilization; the user can then create objects that help manage the network).

(fig. 2C; item 253; column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47; fig. 1 and fig. 4).

22. The method of claim 21, further comprising: employing the state related information to optimally manage productivity of end-users of the networked system (fig. 4, item 40; column 13, lines 1-23).

23. The method of claim 21, further comprising: utilizing the state related information to provide control of a related characteristic of the networked system (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

24. The method of claim 23, the related characteristic of the networked system comprising at least one selected from the group consisting of state reporting management, process thread management, Internet use management, data storage management, memory use management, processing power use management, and load management (figs. 1, 2, and 4; column 8, lines 27-64).

25. The method of claim 23, the control comprising at least one selected from the group consisting of automatic control and manual control (figs. 1, 2, and 4).

26. The method of claim 21, the user comprising a computing device (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

27. The method of claim 21, further comprising: utilizing state related error data and the aggregated system state data to provide system update information to the user (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

28. The method of claim 27, further comprising: providing control to the user to initiate system updates provided in the system update information (fig. 5B).

29. The method of claim 28, providing control including, at least in part, selecting, via user input, to automatically update at least one parameter of the networked system (figs. 1, and 4).

30. The method of claim 21, further comprising: utilizing state related error data and the aggregated system state data to reduce state monitoring information (column 20, lines 5-14).

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31. The method of claim 30, the state related error data comprising at least one selected from the group consisting of software defects and hardware defects (see abstract).

32. The method of claim 21, further comprising: receiving control parameters from a user to control state related parameters (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

33. The method of claim 21, further comprising: data mining the aggregated system state data to determine at least one selected from the group consisting of a diagnosis of at least one aspect of the networked system and a prognosis of at least one aspect of the networked system (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

34. The method of claim 21, further comprising: controlling, via a user interface, the networked system based, at least in part, upon the aggregated system state data (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

35. The method of claim 21, further comprising: providing system state related recommendations based, at least in part, upon the aggregated system state data (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

36. A system that facilitates networked system ~~monitoring~~management, comprising:

means for obtaining aggregated system state data for at least one system component; means for processing at least a portion of the aggregated system state data to determine at least one characteristic of at least one system state; and means for providing state related information based upon the state characteristic to a user (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47); and

means for enabling a user to manipulate assets of the networked system to facilitate improved utilization of the networked system (see fig. 2B, items 101, and 250; fig. 3; column 1, lines 66-67; column 2, lines 1-11; column 12, lines 42-49; note the role of the GUI in the network interface as it is used to create the network entity manually, thereby improving user utilization; the user can then create objects that help manage the network).

37. A data packet transmitted between two or more computer components that facilitates networked system monitoring, the data packet comprising, at least in part, information relating to monitoring of a networked system, the information including, at least in part, state related data based, at least in part, upon aggregated state data corresponding to at least one system component of the networked system (column 6, lines 58-67; column 7, lines 1-9; column 11, lines 15-47).

38. A system employing at least one system of claim 1 that provides a unified information source of at least one selected from the group consisting of performance monitoring data for a plurality of networked systems, usage monitoring data for a plurality of networked systems, and health monitoring data for a plurality of networked systems (column 18, lines 40-50; column 11, lines 55-67).

39. A computer readable medium having stored thereon computer executable components of the system of claim 1 (fig. 1).

40. A device employing the method of claim 21 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device (fig. 1).

41. A device employing the system of claim 1 comprising at least one selected from the group consisting of a computer, a server, and a handheld electronic device (fig. 1, items 102, 103 B, d, and F).

**Conclusion**

4. This **Action is made Non-Final**. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-8400.

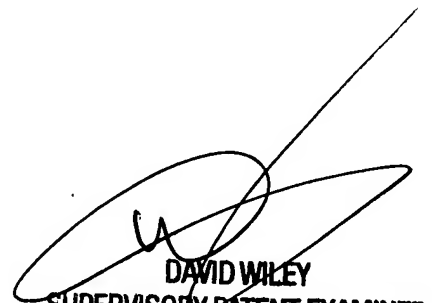
Jude Jean-Gilles

Patent Examiner

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JJ

September 03, 2007



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